



**Informal Hearing Determination**

**Company:** Airway Resources, LLC **Permit No.:** 1301742  
**Subject:** Cessation Order LJJ0001150  
**Conference:** September 12, 2014 @ 8:30 AM **Location:** BSG Office  
**Participants:** Leslie Vincent, PE

On September 12, 2014, an informal hearing was held at the Big Stone Gap office of the Department of Mines Minerals and Energy (Room 116), in reference to the fact of violation for Cessation Order LJJ0001150. Representing Airway Resources was Mr. Leslie Vincent, PE. The hearings officer was Harve Mooney. Mr. Vincent was afforded the opportunity to provide comments and/or information during the informal hearing. There were no attendees from the general public at this hearing.

**Summary of Informal Hearing**

Cessation Order LJJ0001150 was issued to the operator on June 12, 2014 for failure to comply with all remedial measures required by Notice of Violation LJJ000111 violation 1 of 1 under performance code AO. This NOV instructed the operator to submit the corrections for the Renewal Application # 1008418 by June 10, 2014; in which the operator failed to do. The violation was a non remedial violation.

Mr. Vincent noted that the company had a number of items they were working on concurrently. He stated that the company had lost an employee who had been working on the revision, and he (Mr. Vincent) had taken on the responsibility of the revision. Mr. Vincent noted that he then requested an extension to comply the notice of violation which was subsequently denied, and the Cessation Order LJJ0001150 was issued. A few days later, the extension was granted along with several other extensions. Mr. Vincent felt that the cessation order was not necessary since the work was done.

**Informal Hearing Recommendation**

Cessation Order LJJ0001150 (1 of 1) was issued to the operator on July 3, 2014; for failure comply NOV LJJ0001111 which had a remedial measure to submit the corrections to Renewal Application #1008418 by the deadline of 6/10/14. The standard for this violation is addressed within the Virginia Coal Surface Mining Reclamation Regulations, which addresses permits, permit renewal and other permit revisions. Specifically, **Section 4VAC-25-130-774.15 of the**

**Virginia Coal Surface Mining Reclamation Regulations** governs submittal of information required by the DMLR in review of applications. Specifically, subsection (c) (vi) notes,

***(c) Approval process.***

***(1) Criteria for approval. The division shall approve a complete and accurate application for permit renewal, unless it finds, in writing that--***

*(i) The terms and conditions of the existing permit are not being satisfactorily met;*

*(ii) The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards of the Act and this chapter;*

*(iii) The requested renewal substantially jeopardizes the permittee's continuing ability to comply with the Act and the regulatory program on existing permit areas;*

*(iv) The permittee has not provided evidence of having liability insurance or self-insurance as required in 4VAC25-130-800.60;*

*(v) The permittee has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal, as well as any additional bond the division might require pursuant to Subchapter VJ; or*

***(vi) Additional revised or updated information required by the division has not been provided by the applicant.***

The Virginia Coal Surface Mining Reclamation Regulations clearly require each permittee seeking to continue mining to submit and have approved a renewal application. The Division notified the permittee in a timely manner that information necessary for the approval of the renewal was due on June 10, 2014. The permittee did not submit the required comment responses within the time allowed by the Division. A cessation order was issued as a result of failure to comply the notice of violation.

**Based on the findings of this hearing, it is this hearings officer opinion that this violation was properly issued, and it is recommended that the violation be affirmed.**

Informal Hearings Officer: Harve A Mooney

Date: 09/19/14